

UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF NEW YORK

CLERK
U.S. BANKRUPTCY
EASTERN DISTRICT OF
NEW YORK

-----X
TIMOTHY GOING

Plaintiff,

2019 AUG 14 A 10:41

CV

Case No. 16-75545(REG)

RECEIVED

-against-

DOWLING COLLEGE f/d/b/a DOWLING
INSTITUTION f/d/b/a DOWLING COLLEGE
ALUMNI ASSOCIATION f/d/b/a CECOM
a/k/a DOWLING COLLEGE INC.,
Defendants.

PLAINTIFF'S
AFFIDAVIT IN
OPPOSITION TO
DEFENDANT'S MOTION

-----X
STATE OF NEW YORK
SS.
COUNTY OF SUFFOLK

Timothy Going, being duly sworn, deposes and says:

1. I am the plaintiff in the captioned action, and I respectfully submit this affidavit in opposition to the motion dated July 15, 2019, made by Ronald J Friedman, Esq., the Unsecured Creditor Trustee (the "Trustee") of Dowling College Unsecured Creditor Trust (the "Trust"), by his counsel, Silverman Acampora LLP.

2. I have personal knowledge of facts and statements within this Affidavit.

3. I attended Dowling College for the Fall, 2014 semester as a Freshman and was a Sophomore when Defendant abruptly closed its doors in June of 2016. During that time, I was a student athlete playing for the Dowling "Golden Lion" Baseball Team.

4. During my sophomore year at Dowling College, it was conveyed that your deponent would be entitled to an athletic award in the form of a scholarship to help further my education and athletic career. When Dowling closed its doors on May 31, 2016, there was extreme confusion and uncertainty as to what the next steps would be to further my education and athletic career.

5. Defendant did provide local schools that would accept Dowling credits, but did not offer any kind of athletic opportunities or honor an athletic award in the form of a scholarship.

6. The time period that your deponent had to decide where to complete my education ended up being a mere four (4) week window in which I had to research schools, examine their programs for my chosen major and would offer your deponent the same opportunities I had at Dowling as an athlete.

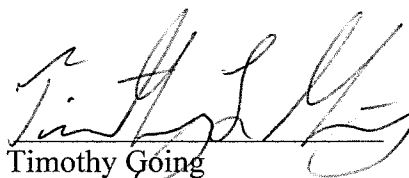
7. The best option that your deponent had available was to attend Franklin Pierce University in Rindge, New Hampshire ("Franklin Pierce"). At Franklin Pierce I was able to continue my chosen major and athletic career, but had to fulfill an additional 15 credits as Franklin Pierce would not accept all my Dowling credits. Additionally, I was not able to take advantage of an athletic scholarship since I had to transfer to Franklin Pierce within this short four (4) week window.

8. The result of this drastic change in my college career caused a delay in my planned graduation date of a full semester, hampered my athletic career as a college baseball player, as well as lost opportunities.

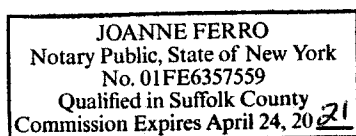
9. Your deponent suffered damages in the sum of \$9,572.00 as a result of these circumstances and are outlined on Exhibit "A" annexed hereto and made a part hereof.

10. This Affidavit is made to support my claim that the motion hereinabove described should be denied. Defendant did not provide your deponent with the protection of my rights and interests as an athletic student, as well as protect me from the additional costs associated with finding a college that would fit my needs in such a limited span of time.

Dated: Bay Shore, New York
August 14, 2019


Timothy Going

Sworn to me before this 14th day August of 2019



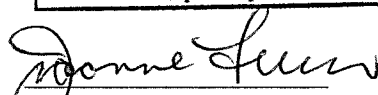

Notary Public

Exhibit A

Claim No. 389

Claim # 389

Electronically Filed: 03/09/2017

UNITED STATES BANKRUPTCY COURT FOR THE EASTERN DISTRICT OF NEW YORK

Name of Debtor:
Dowling CollegeCase No.
16-75545

* P - D C O - P O C / 1 *

Your Claim is Scheduled As Follows:

IF YOU HAVE SUBMITTED THIS PROOF OF CLAIM FORM ELECTRONICALLY, YOU DO NOT NEED TO SUBMIT THIS FORM. PLEASE RETAIN A COPY FOR YOUR RECORDS.

If an amount is identified above, you have a claim scheduled by the Debtor. (This scheduled amount of your claim may be an amendment to a previously scheduled amount.) If you agree with the amount and priority of your claim as scheduled by the Debtor and you have no other claim against the Debtor, you do not need to file this proof of claim form, EXCEPT AS FOLLOWS: If the amount shown is listed as any of DISPUTED, UNLIQUIDATED, or CONTINGENT, a proof of claim MUST be filed in order to receive any distribution in respect of your claim. If you have already filed a proof of claim in accordance with the attached instructions, you need not file again.

Proof of Claim

Official Form 410

Read the instructions before filling out this form. This form is for making a claim for payment in a bankruptcy case. Do not use this form to make a request for payment of an administrative expense. Make such a request according to 11 U.S.C. § 503.

Filers must leave out or redact information that is entitled to privacy on this form or on any attached documents. Attach redacted copies of any documents that support the claim, such as promissory notes, purchase orders, invoices, itemized statements of running accounts, contracts, judgments, mortgages, and security agreements. Do not send original documents; they may be destroyed after scanning. If the documents are not available, explain in an attachment.

A person who files a fraudulent claim could be fined up to \$500,000, imprisoned for up to 5 years, or both. 18 U.S.C. §§ 152, 157, and 3571

This chapter 11 case was commenced in the United States Bankruptcy Court for the Eastern District of NY, on November 29, 2016 (the "Petition Date.") Fill in all the information for the claim as of the Petition Date.

Part 1: Identify the Claim

1. Who is the current creditor?	TIMOTHY GOING Name of the current creditor (the person or entity to be paid for this claim) Other names the creditor used with the debtor _____	
2. Has this claim been acquired from someone else?	4 No Yes. From whom? _____	
3. Where should notices and payments to the creditor be sent?	Where should notices to the creditor be sent? TIMOTHY GOING Name 111 GENEVA STREET Number Street BAY SHORE, NY 11706 City State ZIP Code Contact phone (631) 665-2980 Contact email TL.GOING@YAHOO.COM	Where should payments to the creditor be sent? (if different) Name Number Street City State ZIP Code Contact phone Contact email
4. Does this claim amend one already filed?	4 No Yes. Claim number on court claims registry (if known) _____ Filed on _____ MM/DD/YYYY	
5. Do you know if anyone else has filed a proof of claim for this claim?	4 No Yes. Who made the earlier filing? _____	

Claim # 389

Electronically Filed: 03/09/2017

* P - D C O - P O C / 2 *

Part 2: Give Information About the Claim as of the Date the Case Was Filed

6.	Do you have any number you use to identify the debtor?	<input type="checkbox"/> No <input checked="" type="checkbox"/> Yes. Last 4 digits of the debtor's account or any number you use to identify the debtor: _____	
7.	How much is the claim?	\$ <u>9,572.00</u>	Does this amount include interest or other charges? <input type="checkbox"/> No <input checked="" type="checkbox"/> Yes. Attach statement itemizing interest, fees, expenses, or other charges required by Bankruptcy Rule 3001(c)(2)(A).
8.	What is the basis of the claim?	Examples: Goods sold, money loaned, lease, services performed, personal injury or wrongful death, or credit card. Attach redacted copies of any documents supporting the claim required by Bankruptcy Rule 3001(c). Limit disclosing information that is entitled to privacy, such as health care information. <u>Due to the school closing I lost 15 college credits when transferring to another university.</u>	
9.	Is all or part of the claim secured?	<input type="checkbox"/> No <input checked="" type="checkbox"/> Yes. The claim is secured by a lien on property. Nature of property: Real estate. If the claim is secured by the debtor's principal residence, file a <i>Mortgage Proof of Claim Attachment</i> (Official Form 410-A) with this <i>Proof of Claim</i> . Motor vehicle Other. Describe: _____ Basis for perfection: _____ Attach redacted copies of documents, if any, that show evidence of perfection of a security interest (for example, a mortgage, lien, certificate of title, financing statement, or other document that shows the lien has been filed or recorded). Value of property: \$ _____ Amount of the claim that is secured: \$ <u>0.00</u> Amount of the claim that is unsecured: \$ <u>9,572.00</u> (The sum of the secured and unsecured amounts should match the amount in line 7.) Amount necessary to cure any default as of the date of the petition: \$ _____ Annual Interest Rate (when case was filed) _____ Fixed Variable	
10.	Is this claim based on a lease?	<input type="checkbox"/> No <input checked="" type="checkbox"/> Yes. Amount necessary to cure any default as of the date of the petition. \$ _____	
11.	Is this claim subject to a right of setoff?	<input type="checkbox"/> No <input checked="" type="checkbox"/> Yes. Identify the property: _____	
12.	Is all or part of the claim entitled to priority under 11 U.S.C. § 507(a)?	<input type="checkbox"/> No <input checked="" type="checkbox"/> Yes. Check all that apply:	Amount entitled to priority
A claim may be partly priority and partly nonpriority. For example, in some categories, the law limits the amount entitled to priority.		Domestic support obligations (including alimony and child support) under 11 U.S.C. § 507(a)(1)(A) or (a)(1)(B).	\$ _____
		Up to \$2,850* of deposits toward purchase, lease, or rental of property or services for personal, family, or household use. 11 U.S.C. § 507(a)(7).	\$ _____
		Wages, salaries, or commissions (up to \$12,850*) earned within 180 days before the bankruptcy petition is filed or the debtor's business ends, whichever is earlier. 11 U.S.C. § 507(a)(4).	\$ _____
		Taxes or penalties owed to governmental units. 11 U.S.C. § 507(a)(8).	\$ _____
		Contributions to an employee benefit plan. 11 U.S.C. § 507(a)(5).	\$ _____
		Other. Specify subsection of 11 U.S.C. § 507(a)() that applies.	\$ _____

* Amounts are subject to adjustment on 4/01/19 and every 3 years after that for cases begun on or after the date of adjustment.

Claim # 389

Electronically Filed: 03/09/2017

* P - D C O - P O C / 3 *

Part 3: Sign Below

The person completing this proof of claim must sign and date it. FRBP 9011(b).

If you file this claim electronically, FRBP 5005(a)(2) authorizes courts to establish local rules specifying what a signature is.

A person who files fraudulent claim could be fined up to \$500,000 imprisoned for up to 5 years, or both. 18 U.S.C. §§ 152, 157, and 3571.

Check the appropriate box:

☐ I am the creditor.

☐ I am the creditor's attorney or authorized agent.

☐ I am the trustee, or the debtor, or their authorized agent. Bankruptcy Rule 3004.

☐ I am a guarantor, surety, endorser, or other codebtor. Bankruptcy Rule 3005.

I understand that an authorized signature on this Proof of Claim serves as an acknowledgment that when calculating the amount of the claim, the creditor gave the debtor credit for any payments received toward the debt.

I have examined the information in this Proof of Claim and have a reasonable belief that the information is true and correct.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on date 03/09/2017

MM / DD / YYYY

Timothy L Going

Signature

Print the name of the person who is completing and signing this claim:

Name

Timothy L Going

First name

Middle name

Last name

Title

Company

Identify the corporate servicer as the company if the authorized agent is a servicer.

Address

111 Geneva Street

Number

Street

BAY SHORE, NY 11706

City

State

ZIP Code

Contact phone

(631) 335-1817

Email

TL.going@yahoo.com

IF SUBMITTING A HARD COPY OF A PROOF OF CLAIM FORM, PLEASE SEND YOUR ORIGINAL, COMPLETED CLAIM FORM AS FOLLOWS: IF BY MAIL: DOWLING COLLEGE CASE ADMINISTRATION, C/O GCG, P.O. BOX 10342, DUBLIN, OHIO 43017-5542. IF BY HAND OR OVERNIGHT COURIER: DOWLING COLLEGE CASE ADMINISTRATION, C/O GCG, 5151 BLAZER PARKWAY, SUITE A, DUBLIN, OH 43017. ANY PROOF OF CLAIM SUBMITTED BY FACSIMILE OR EMAIL WILL NOT BE ACCEPTED.

IF YOU ARE SUBMITTING YOUR PROOF OF CLAIM ELECTRONICALLY, YOU WILL RECEIVE AN EMAIL CONFIRMATION OF YOUR CLAIM SUBMISSION. YOU WILL ALSO BE PROVIDED WITH AN ELECTRONICALLY DATE STAMPED PDF OF YOUR CLAIM. YOU MAY PRINT AND RETAIN A COPY OF THIS DOCUMENT FOR YOUR RECORDS.

THE GENERAL BAR DATE IN THESE CHAPTER 11 CASES IS MARCH 10, 2017 AT 5:00 P.M. (PREVAILING EASTERN TIME)
THE GOVERNMENTAL BAR DATE IS MAY 30, 2017 AT 5:00 P.M. (PREVAILING EASTERN TIME)

07/03/2014

Dowling College
STUDENT SCHEDULE/BILL
Fall 2014 (201409)

CRN	SUBJ	CRSE	COURSE TITLE	LV
90033	ENG	1001A	Principles of Writing (EI)	01
90075	MGT	1011N	Intro to Mgt Theory & Practice	01
91001	HST	1001C	World History I	01
92858	FYE	1026A	Alcohol and Drugs in America	01
93201	MTH	1002A	Fund of Mathematics	01 ✓

07/13/2015

Dowling College
STUDENT SCHEDULE/BILL
Fall 2015 (201509)

CRN	SUBJ	CRSE	COURSE TITLE	LV
90028	ECN	1001A	Introductory Macroeconomics	01 ✓
90382	SOC	2101C	Self & Soc I: Fnd Social Theory	01
90919	MUS	1008C	World Music	01
91162	MTH	1006A	Statistics	01 ✓
93100	MGT	2075N	Human Resource Management	01 ✓

12/03/2014

Dowling College
STUDENT SCHEDULE/BILL
Winter/Spring 2015 (201502)

CRN	SUBJ	CRSE	COURSE TITLE	CREDS	LV
20056	MUS	1002C	Music West World: 1750-Present	3.00	01
20141	SMP	1041A	Sport in Society	3.00	01
20420	SMP	1039N	Foundations of Sport Mgt	3.00	01
21006	HST	1022C	United States II	3.00	01 ✓
21072	CIS	1200N	Intro to Info Systems Mangment	3.00	01

=====

EDU 4/2016
Under

Dowling College
STUDENT SCHEDULE/BILL
Winter/Spring 2016 (201602)

P	CRN	SUBJ	CRSE	COURSE TITLE	CREDS	LV
1	20192	ECN	2002A	Introductory Microeconomics ✓	3.00	01
1	20252	SOC	2102C	Self & Soc II: Race, Gender, Class	3.00	01
1	21593	SMP	2048N	Sport Leadership	3.00	01
3	20226	MGT	3108N	Labor Relations	3.00	01
S	23496	NSC	2004C	Science of Planet Earth	3.00	01

Course Credits: 15.00

✓ = 15 credits that did not transfer over to new university

===== CHARGES =====		===== CREDITS/ANTICIPATED CREDITS =====	
EDU Passport access fee	22.00	Direct Loan - Subsidized	1732.00
Undergraduate Tuition	14550.00	Direct Loan - Unsubsidized	990.00
		Sibling Scholarship - U/G	750.00
		UG Academic Honor Scholarship	4250.00

* * * CONTINUED ON NEXT PAGE * * *

add back
\$2722 (Fasa)

School Scholarships \$5000

14,572 —
 5000 School Scholarships
9572

14,572.00 + — *Tuition*
 7,722.00 -
 1,732.00 + *add back*
 990.00 + *loans - Fasa*
 002.....
9,572.00 *

Timothy L. Going
 Student ID: [REDACTED]
 Campus: 1
 Total Current Term Charges: 14572.00
 Total Current Term Credits: 7722.00
 Previous/Other Term Balance: 0.00
 Current Term Balance: 6850.00
 AMOUNT DUE: 6850.00
 Future Balance: 0.00

+ 2722
9572

----- Return Bottom Portion With Payment -----

Timothy L. Going
 111 Geneva Street
 Bay Shore, NY 11706

Student ID: [REDACTED]
 [REDACTED]
 [REDACTED]



DCO0201028912 01002059



TIMOTHY GOING
111 GENEVA STREET
BAY SHORE NY 11706

In re: Dowling College
Case No. 16-75545 (REG)

To Whom It May Concern:

Enclosed please find a Notice of Deadline for Filing Proofs of Claim (the "Bar Date Notice") in the above referenced bankruptcy case pending in the United States Bankruptcy Court for the Eastern District of New York.

Please refer to the Bar Date Notice for complete instructions for filing a proof of claim. If you file a proof of claim in this chapter 11 case, you are encouraged to use the Online Claims Portal by visiting <http://www.gardencitygroup.com/cases/dco> and entering the Claimant Number and Control number provided below:

Claimant Number:	01002059
Control Number:	7309273092

Also enclosed is a hardcopy proof of claim form. If you submit a claim using the Online Claims Portal, additional hardcopy submission is unnecessary. Please retain this letter for your records.

Thank you,
Garden City Group, LLC

AFFIDAVIT OF SERVICE

State of New York)
County of Suffolk)

The undersigned being duly sworn, deposes and says:

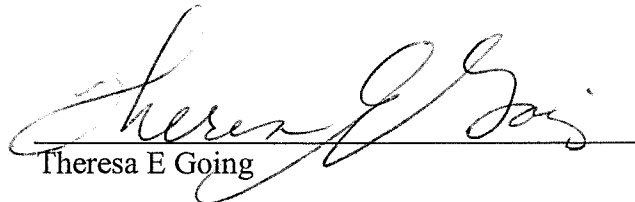
Theresa E Going is not a party to the action, is over 18 years of age and resides at 111 Geneva Street, Bay Shore New York.

That on August 14, 2019, deponent served the with in Plaintiff's Affidavit in Opposition to Defendant's Motion - Case No 16-75545 (REG) Timothy Going vs Dowling College f/d/b/a Dowling Institution f/d/b/a/ Dowling College Alumni Association f/d/b/a Cecom a/k/a/ Dowling College Inc. upon:

Pro Se Office – United States District Court Eastern District New York - 100 Federal Plaza CI, NY
Chamber of the Honorable Robert E Grossman - 290 Federal Plaza CI, NY
Clerk of the United States Bankruptcy Court Eastern District of New York -290 Federal Plaza CI, NY
The Office of the United States Trustee for Region 2 att: Stan Yang - 560 Federal Plaza CI, NY
Silverman Acampora LLP att: Brian Powers - 100 Jericho Quadrangle Suite 300 Jericho, NY


 X Personal Service: by delivering a true copy of the aforesaid documents personally;
deponent knew said person/corporation so served to be the person/corporation described.

 Service by Mail: by depositing a true copy of the aforesaid documents in a postpaid properly addressed envelope in a post office or official depository under the exclusive care and custody of the United States Postal Service.


Theresa E Going

Sworn to before me this 14th

day of AUGUST


Notary Public

JOANNE FERRO
Notary Public, State of New York
No. 01FE6357559
Qualified in Suffolk County
Commission Expires April 24, 2021